

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ROBERT FAZIO, et al.,)	CASE NO. 1:06 CV 2253
)	
Plaintiff,)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	
)	<u>ORDER OF REMAND</u>
FRANK GRUTTADARIA,)	
)	
Defendant.)	

On September 19, 2006, defendant Frank Gruttaduria filed a "Notice and Petition for Removal" (the "Notice") of this action, which was originally filed in the Cuyahoga County Court of Common Pleas on January 26, 2006. The Notice asserts there is federal question and diversity of citizenship jurisdiction. However, four of the five plaintiffs, and the defendant, are Ohio citizens, and no federal claim is set forth in the complaint.

Title 28 U.S.C. § 1441, which governs civil actions removable from state court generally, provides that such removal may only occur when a federal court has original jurisdiction of the matter and a defendant in the action seeks removal. Further, a notice of removal must be filed within 30 days after a defendant's receipt of a copy of the initial pleading or within 30 days after service of summons upon the defendant if the initial pleading has then been filed in court and is not required to be served on the defendant, whichever is shorter. 28 U.S.C. § 1446(b). It is evident on the face of the Notice that these requirements have not been met here.

Accordingly, this matter is remanded to the Cuyahoga County Court of Common Pleas.

IT IS SO ORDERED.

/s/SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE